

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, May 15, 2013 – 2:00 p.m. – Room 450 State Capitol

Members Present:

Sen. Mark B. Madsen, Senate Chair
Rep. Kay L. McIff, House Chair
Sen. Lyle W. Hillyard
Sen. Luz Robles
Rep. Patrice M. Arent
Rep. LaVar Christensen
Rep. Brian M. Greene
Rep. Craig Hall
Rep. Brian S. King
Rep. Jeremy A. Peterson
Rep. V. Lowry Snow

Members Absent:

Rep. Lee B. Perry
Sen. Stephen H. Urquhart

Staff Present:

Ms. Chelsea B. Lloyd, Policy Analyst
Ms. Esther D. Chelsea-McCarty, Associate
General Counsel
Ms. Jennifer K. Christopherson, Legislative
Secretary

Note: A list of other present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair McIff called the meeting to order at 2:18 p.m. Rep. Perry was excused from the meeting.

MOTION: Sen. Madsen moved to approve the minutes of the November 14, 2012, meeting. The motion passed unanimously with Sen. Robles absent for the vote.

Chair McIff introduced committee staff and new committee members.

2. Summary of 2013 General Session Committee Bills and Overview of 2013 Interim

Ms. Lloyd gave an overview of the 2013 General Session committee bills, statutory reports, and background on the sunset provision related to Utah Code, Section 78A-2-227.1 assigned for committee review during the 2013 interim. Committee discussion followed.

Ms. Chelsea-McCarty reviewed sunset provisions related to Utah Code, Subsection 78B-6-802(1)(i) and Section 78B-6-901.5 assigned for committee review during the 2013 interim. Committee discussion followed.

3. Administrative Subpoenas

Ms. Chelsea-McCarty distributed "Administrative Subpoenas" and provided background on the use of administrative subpoenas to obtain electronic communication records in certain criminal investigations. Committee discussion followed.

Mr. Ken Wallentine, Chief of Law Enforcement, Office of the Attorney General, stated that law enforcement and prosecutorial agencies use a series of interrelated complex algorithms that search for only previously identified child pornography images.

4. Interim Study List – Committee Discussion

Rep. Peterson gave an overview of his study item involving a re-creation of the circuit court system. He encouraged the committee to study this item to see if there would be any benefit from the creation of specialized courts to help alleviate the load on the district courts.

Sen. Daniel Thatcher discussed his study item dealing with court fees for political subdivisions and explained that fees should be refunded to the citizen on successful appeal of a city ordinance prosecution. He responded to questions from the committee.

Mr. Richard Schwermer, Assistant Court Administrator, Utah Administrative Office of the Courts, stated that court fees for political subdivisions address civil cases only.

Rep. Jim Nielson discussed his study item regarding divorce orientation requirements. He stated that Utah's program should adjust to create a more useful system by requiring a divorce orientation class prior to a divorce being filed. He responded to questions from the committee.

Ms. Dani Hartvigson, Coalition for the Preservation of Family Values, encouraged the committee to pass legislation that requires both the filer and the respondent to take a divorce orientation course early in the process.

Sen. Todd Weiler presented an overview of his study item dealing with prejudgment interest revisions. He explained that prejudgment interest rates are much higher than post judgment interest rates.

Rep. Mike McKell distributed "Eisenberg Gilchrist & Cutt - Internal Memorandum." He recommended that the committee study product liability for defects of property manufactured outside of the United States.

Sen. Weiler discussed his study item involving protecting children in situations of custody or visitation. He explained that current protections in law are not sufficient and that a judge should have the option to place children in protective custody while a parent is under investigation for a capital offense.

Sen. Weiler then addressed his study item dealing with reciprocal provision for birth fathers in adoption cases and explained the importance of a birth father's rights in an adoption.

Lastly, Sen. Weiler gave an overview of his study item involving recording and transcribing legal proceedings. He encouraged the committee to consider studying the acceptable use of new video technology in legal proceedings.

Rep. Christensen discussed his study item involving whether to permit a parent who has been served with a petition for termination of parental rights to request a jury trial.

Sen. Hillyard gave an overview of his study item dealing with the role and qualifications of custody evaluators.

Rep. Rebecca Chavez-Houck distributed and discussed "Second-Parent Adoption" and explained that second-parent adoptions should not be prohibited and that parents should be able to exercise their rights to care for their children.

Mr. Clifford Rosky, law professor, University of Utah, explained that second-parent adoptions pertain to parental rights and not marital status. He responded to questions from the committee.

Ms. Hartvigson stated that the role of the judge is to apply the laws and not to determine the laws.

Sen. Hillyard requested that the committee study the following uniform laws: the Uniform Deployed Parents Custody and Visitation Act, the Uniform Premarital and Marital Agreements, the Uniform Manufactured Housing Act, the Uniform Asset Freezing Order Act, and the Uniform Choice of Court Agreements Convention Implementation Act.

Chair McIff requested that the committee members return their prioritized study item lists to committee staff.

5. Other Items / Adjourn

MOTION: Rep. King moved to adjourn the meeting. The motion passed unanimously with Sen. Hillyard, Sen. Robles, Rep. Hall, and Rep. Peterson absent for the vote.

Chair McIff adjourned the meeting at 5:13 p.m.